IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR.

W.P. No. 1259 /2002.

PETITIONER : Jailal Ram s/o Pancham Ram, aged about 23 years, r/o Village Sapkara, Tehsil Surajpur Distt. Surguja, C.G.

V E R S U S.

RESPONDENTS : 1. The State of Chhattisgarh, through the Secretary, Panchayats, Raipur, C.G.

2. The Gram Panchayat, Sapkara, through Sarpanch, Gram Panchayat Sapkara, Post Dedri, Tehsil Surajpur, Distt. Surguja, C.G.

3. The Sub-Divisional Officer, Surajpur, Distt. Surguja, C.G.

4. Collector, Surguja, Ambikapur, Distt. Surguja, C.G.

P.R. No. 1259/R
Presented by Shri A.K. Prasad
dated 9.10.02

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 1259 of 2002

Petitioner : Jailal Ram

Versus

Respondents : The State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Dr. Sailesh Ahuja, counsel for the Petitioner.

Shri Sushil Dubey, Government Advocate for the respondents No. 1, 3 and 4.

Dr. N.K. Shukla, Senior counsel with Shri Dilip Dubey, counsel for the respondent No. 2.

ORDER

(Passed on 30th August, 2006)

1. The petitioner was appointed as Panchayat Karmi by order dated 15.5.1997 (Annexure P/1) and thereafter the petitioner was appointed as the Secretary of the Gram Panchayat, Sapkara under Section 69 of the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993.

2. The petitioner was removed from the post of Panchayat Karmi/Secretary on the basis of the resolution dated 2.10.2000 (Annexure P/2) passed by the Gram Panchayat.

3. Being aggrieved, the petitioner filed an appeal before the Sub Divisional Officer, Soorajpur. The Sub Divisional

Officer by order dated 19.12.2001 (Annexure P/10) dismissed the appeal on the ground of limitation.

4. The petitioner further preferred an appeal before the Collector, Surguja. The Collector, Surguja affirmed the order passed by the Sub Divisional Officer, Soorajpur and dismissed the appeal by order dated 27.5.2002 (Annexure P/11).

5. The petitioner has filed this petition impugning the resolution dated 2.10.2000 (Annexure P/2) passed by the Gram Panchayat, order dated 19.12.2001 (Annexure P/10) passed by the Sub Divisional Officer, Soorajpur and order dated 27.5.2002 (Annexure P/11) passed by the Collector, Surguja.

6. Service conditions of the petitioner are governed by the provisions of the Madhya Pradesh Panchayat Service (Discipline and Appeal) Rules, 1999 (for short 'The Rules, 1999'). Rule 7 of the Rules, 1999 provides for procedure for imposing major penalties as specified in clause (iv) to (via) of rule 5.

7. In the present case, service of the petitioner has been removed without following statutory procedure as prescribed in Rule 7 of the Rules 1999. Thus, the order is bad being contrary to the provisions of the Rules, 1999.

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8. Accordingly, the resolution dated 2.10.2000 (Annexure P/2) passed by the Gram Panchayat, order dated 19.12.2001 (Annexure P/10) passed by the Sub Divisional Officer, Soorajpur and order dated 27.5.2002 (Annexure P/11) passed by the Collector, Surguja are quashed and the petitioner is entitled to all the benefits, pecuniary and otherwise. It is made clear that this order will not come in the way of the Respondent/Gram Panchayat or any other respondent, as the case may be, from initiating the disciplinary action against the petitioner for the alleged misconduct committed by him, if so advised, in accordance with law and in terms of the procedure prescribed in Rule 7 of the Rules, 1999.

Sd/-
Satish K. Agnihotri
Judge

Bablu